



February 8, 2000

Mr. Leonard W. Peck, Jr.  
Assistant General Counsel  
Department of Criminal Justice  
P.O. Box 4004  
Huntsville, Texas 77342

OR2000-0466

Dear Mr. Peck:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 132009.

The Texas Department of Criminal Justice (the "department") received a request for information relating to an inmate's visitation privileges. You claim that the requested information is excepted from disclosure under sections 552.107, 552.108 and 552.131 of the Government Code. We have considered the exceptions you claim and have reviewed the information you submitted.

Sections 552.131, "Certain Information Relating to Inmate of Department of Criminal Justice," and 552.029, "Right of Access to Certain Information Relating to Inmate of Department of Criminal Justice," were added to subchapters C and B, respectively, of chapter 552 of the Government Code by the Seventy-sixth Legislature. *See* Act of May 26, 1999, 76<sup>th</sup> Leg., R.S., ch. 783, §§ 1, 2, 1999 Tex. Sess. Law Serv. 3407, 3407-08 (Vernon). Section 552.131(a) provides in relevant part that "[e]xcept as provided . . . by Section 552.029, information obtained or maintained by the [department] is excepted from [required public disclosure] if it is information about an inmate who is confined in a facility operated by or under a contract with the department." Section 552.029 provides, however, that "[n]otwithstanding Section . . . 552.131," eight specified categories of "information about an inmate who is confined in a facility operated by or under a contract with the [department] are] subject to required disclosure[.]" Gov't Code § 552.029. Having reviewed the records

that you submitted, we conclude that they represent “information about an inmate who is confined in a facility operated by . . . the department.” Gov’t Code § 552.131(a). We further conclude that the submitted records does not contain any of the information made public by section 552.029. Consequently, we conclude that the information in question is excepted from public disclosure under section 552.131 of the Government Code.

As we are able to make a determination under section 552.131, we do not address your claims under sections 552.107 and 552.108. This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

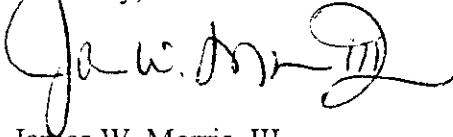
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body’s intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general’s Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for

contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read 'J.W. Morris, III'. The signature is fluid and cursive, with a large initial 'J' and a stylized 'M' at the end.

James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/ch

Ref: ID# 132009

Encl. Submitted documents

cc: Mr. Earl Griffin, Jr.  
Williams & Griffin  
P.O. Box 730  
Childress, Texas 79201  
(w/o enclosures)